IN THE HIGH COURT OF PUNAJB AND HARYANA AT CHANDIGARH

Date of Decision: December 18, 2007

Giarsi Lal Yadav ..... Petitioner

versus

State Bank of Patiala etc ..... Respondents

CORAM

HON'BLE MR.JUSTICE HEMANT GUPTA.
HON'BLE MR.JUSTICE MOHINDER PAL

1.Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3.Whether the judgment should be reported in the Digest ?

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Present: Shri R.K. Malik,Advocate for the petitioner

Shri G.S. Anand, Advocate for the respondents

**HEMANT GUPTA, J.**

The challenge in the present writ petition is to the order dated 26.05.2005 whereby the petitioner has been removed from service and the order passed by the Appellate Authority on 1.8.2006 and 6.9.2006 by which the appeal of the petitioner was dismissed.

The petitioner while working as Daftri in the respondent-Bank was charge-sheeted on 28.09.2004 for major penalty. The Enquiry Officer appointed to go into the allegations of misconduct found charge No.1 partly proved against the petitioner and charge No.2 as proved. On the basis of the said enquiry report, punishment of removal from service with superannuation benefits was awarded on 26.5.2005 (Annexure P-4). The petitioner preferred an appeal against the said order. Since the statutory

appeal filed by the petitioner was not decided by the respondents, the petitioner filed a writ petition before this Court. This Court on 25.05.2006 directed the respondents to take decision on the appeal filed by passing a speaking order. In pursuance of such directions, learned Appellate Authority has dismissed the appeal of the petitioner. The relevant extract from the said order reads as under:-

> " On considering the case in totality, I found that you have not brought any new facts or relevant record which would warrant alteration of the penalty imposed on you by Disciplinary Authority...."

Learned counsel for the petitioner has vehemently argued that the respondents were directed to pass a speaking order but the said order has not been complied with in its letter and spirit. It is also argued that the Appellate Authority is required to pass a detailed speaking order. On the other hand, learned counsel for the respondents has argued that the Appellate Authority is not required to repeat the findings recorded by the disciplinary authority while deciding the appeal. Reliance is placed upon **Ram Kumar vs. State of Haryana, AIR 1987 SC 2043.**

Without examining the question whether the Appellate Authority was, in fact, required to pass a detailed speaking order or not, it is suffice to note that this Court has directed the Appellate Authority to pass a speaking order in the appeal. However, the relevant extract reproduced above does not satisfy the requirement of a speaking order. The petitioner has been ordered to be removed from service. The petitioner has raised contentions which are factual in nature. Therefore, we are of the opinion that the order passed by the Appellate Authority does not satisfy the requirement of law. Thus, we set aside the order dated 1.8.2006 / 6.9.2006

(Annexure P-7) and direct the learned Appellate Authority to pass a speaking order considering the contentions raised by the petitioner in his grounds of appeal in accordance with law.

The writ petition stands disposed of accordingly.

A copy of the order be given Dasti on payment of usual charges.

(HEMANT GUPTA)
JUDGE

December 18, 2007
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(MOHINDER PAL)
JUDGE